

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION**

**Public Utilities Commission's Guidance on Principles for the Development and Review of
Performance Incentive Mechanisms**

I. Purpose of a Guidance Document

A guidance document is a record of general applicability developed by an agency that lacks the force of law but states the agency's current approach to, or interpretation of, law or describes how and when the agency will exercise discretionary functions. It has also been defined as an agency statement of general applicability and future effect that sets forth a policy on a statutory, regulatory, or technical issue.¹ This guidance document provides direction on how the PUC will apply its general and specific authority to set rates, tariffs, tolls, and charges in Title 39 to proposals for performance incentives for public utilities under the PUC's jurisdiction.²

II. Applicability

1. To guide its review of performance incentive mechanisms, the PUC adopts the Principles in Section IV of this document.
 1. The Principles will apply to all proposals of performance incentive mechanisms.
 2. Regulators will apply all Principles to the body of evidence in the record.
 3. Proponents or opponents of a performance incentive mechanism proposal bear the burden of proof that the proposal is consistent or inconsistent with the Principles.
 4. Perfect consistency with the Principles is not required for approval of a performance incentive mechanism.
 5. This Guidance Document does not modify existing regulatory or evidentiary standards and guidance and applicable judicial precedent.³ This is additional guidance on the PUC's application of its ratemaking authority to performance incentive mechanisms.
 6. This Guidance Document is not intended to expand or detract from the current rights and obligations of the parties before the PUC, but to provide clarity to parties presenting a case before the PUC.

¹ R.I. Gen. Laws § 42-35-2.12 establishes an agency's issuance and limited use of a guidance document, and further affords rights to individuals who may be detrimentally impacted by an agency's reliance on a guidance document. An agency that proposes to rely on a guidance document to the detriment of a person in any administrative proceeding shall afford the person an adequate opportunity to contest the legality or wisdom of a position taken in the document. The agency may not use a guidance document to foreclose consideration of issues raised in the document.

² Including, but not limited to R.I. Gen. Laws § 39-1-1; § 39-1-3; §39-1-38; § 39-1-27.7.1 (e)(1); § 39-1-27.7.1 (e)(3); § 39-26.6-12 (j)(3); § 39-26.1-4; § 39-26.3-4.1(e); § 39-3-7; §39-3-12

³ For example, this Guidance Document does not modify the application of the Rhode Island Benefit-Cost Framework, goals for the future electric system, and rate design principles adopted as guidance for National Grid's electric business in Docket No. 4600A. See Public Utilities Commission's Guidance on Goals, Principles and Values for Matters Involving The Narragansett Electric Company d/b/a National Grid issued in Docket No. 4600A. <http://www.ripuc.org/eventsactions/docket/4600A-GuidanceDocument-Final-Clean.pdf>.

2. The PUC recognizes that some utility incentives have varying degrees of consistency with these principles.
 1. This includes a total return on equity that is based solely on the size of rate-based investments, remuneration, and minimum service quality standards.
 2. The PUC recognizes these incentives structures are the current norms and default in utility regulation.
 3. The Principles reveal weaknesses and strengths of the current norms and default.
 4. The Principles will be applied to the current norms and default to the extent possible with specific consideration of applicable statutes, gradualism, and fair notice.
 5. The PUC expects to use these Principles to evaluate proposals that reasonably modify the current norms and default to reduce or eliminate the impact inconsistencies embedded in the current norms and defaults have.
 6. The PUC will apply the Principles to proposals for new⁴ performance incentive mechanisms with consideration of any existing incentives, including return on equity in rate base, remuneration, and minimum service quality standards, to the extent possible.
 7. The PUC will take into consideration any existing performance incentive mechanisms in proposals to set return on equity in rate base investments or minimum service quality standards, to the extent possible.⁵
3. The effect of this document is immediate upon adoption by the PUC and will be applied in any case filed on or after the effective date of this document that proposes performance incentive mechanisms for an investor-owned utility.

III. Definitions

1. Costs and benefits: A category of value that can be reasonably and reliably shown to exist and is reasonably related to state policy.⁶
2. Risk: Exposure to the possibility of gain or loss.
3. Verifiable: Able to be checked and proved.
4. Cash benefits: Benefits, avoided costs, or costs that are credited in dollars.
5. Statutory remuneration: Payment to the utility specifically defined in applicable statute.
6. Minimum service quality standards: A standard which the quantity, quality, or character of products or services furnished by a public utility and conditions of furnishing products or services must meet or exceed.

⁴ “New” proposals are those that require approval or reapproval by PUC order, such as those associated with annual programs and plans.

⁵ The PUC does not set statutory remuneration.

⁶ The list of costs and benefits considered in evaluating National Grid’s electric business is the Rhode Island Benefit Cost Framework in Docket No. 4600A. See Public Utilities Commission’s Guidance on Goals, Principles and Values for Matters Involving The Narragansett Electric Company d/b/a National Grid issued in Docket No. 4600A. <http://www.ripuc.org/eventsactions/docket/4600A-GuidanceDocument-Final-Clean.pdf>.

7. Principle: A guide for evaluation.
8. Customer share: For a given utility, the share of costs and benefits related to the utility's service that are allocated to the customers of the utility.

IV. Principles

1. A performance incentive mechanism can be considered when the utility lacks an incentive (or has a disincentive) to better align utility performance with the public interest and there is evidence of underperformance or evidence that improved performance will deliver incremental benefits.
2. Incentives should be designed to enable a comparison of the cost of achieving the target to the potential quantifiable and cash benefits.
3. Incentives should be designed to maximize customers' share of total quantifiable, verifiable net benefits. Consideration will be given to the inherent risks and fairness of allocation of both cash and non-cash system, customer, and societal benefits.
4. An incentive should offer the utility no more than necessary to align utility performance with the public interest.
5. The utility should be offered the same incentive for the same benefit. Stated another way, no action should be rewarded more than an alternative action that produces the same benefit.